

LAW OFFICE OF
DAVID L. LOCKHART

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PROCEDURAL HISTORY

On or about September 26, 2011, a petition to revoke Defendant Maupin’s probation grant was filed with this Honorable Court. Subsequent to the filing of the petition, this Honorable Court issued an arrest warrant.

On or about September 29, 2011, Defendant Maupin appeared in Court for an Initial Appearance. At the conclusion of the hearing, Defendant was ordered detained and an Admit/Deny Hearing was scheduled for October 17, 2011. Further, a detention hearing was set for October 4, 2011.

On or about October 4, 2011, a detention hearing was conducted before United States Magistrate Judge David K. Duncan. At the conclusion of the detention hearing, Defendant Maupin was ordered detained.

On or about October 17, 2011, Defendant Maupin entered an admission to allegation C of the petition to revoke his supervised release. The remaining allegations contained in the subject petition are to be dismissed at the time of disposition. There are no agreements as to the recommendation from the United States Probation Office.

BACKGROUND

As this Honorable Court is aware, Defendant Maupin was convicted of making a False Statement to a Federal Agency in or around September 21, 2009. Defendant Maupin was sentenced to five (5) years of probation.

Defendant Maupin has been on probation for a little over two (2) years at the time the subject petition to revoke his probation grant was filed.

DISCUSSION

The present petition represents the *first* request the United States Probation Office (hereinafter, “USPO”) has filed to revoke Defendant Maupin’s probation grant. Nonetheless, the USPO is recommending that Defendant Maupin be sentenced to six (6) months in the Bureau of

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1 Prisons (hereinafter, “BOP”) to be followed by a term of thirty-six (36) months of supervised release
2 upon his release from custody. Defendant Maupin, by and through undersigned counsel, respectfully
3 disagree with the USPO’s recommendation and many of the characterizations made by the USPO
4 regarding Defendant Maupin’s performance while on probation.
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6 In support of its position, the USPO directs the Court’s attention to, among other things,
7 Defendant Maupin’s alleged failure to work regularly at a lawful occupation and his failure to pay
8 any monetary penalties as ordered by the Court. These allegations, among others, are
9 mischaracterized and will be addressed further herein.

10 Defendant Maupin acknowledges that he has had intermittent lapses regarding compliance
11 with **ALL** of the terms of his probation grant. However, there exists overwhelming evidence that he
12 has been compliant with most of the terms and has taken his probation grant seriously and wishes to
13 accurately establish a record regarding his performance.
14

15 When Defendant Maupin began his probation term, he was gainfully employed with Instant
16 Wireless, as a bookkeeper and supervisor. Defendant Maupin acknowledges that he informed his
17 probation officer, Mr. Michael Watts, that he may have a better employment opportunity in the very
18 near future. Further, Defendant Maupin acknowledges that Mr. Watts informed him that he was to
19 advise him, Mr. Watts, and give Instant Wireless at least two (2) weeks notice, if he was going to
20 resign and accept new employment.
21

22 The USPO contends that Defendant Maupin did not follow the above-mentioned directives
23 regarding notification. Defendant Maupin acknowledges that he **did not** inform Mr. Watts of his new
24 employment opportunity with Microsoft Store (hereinafter, “Microsoft”) in a timely manner.
25 However, time was of the essence and Defendant Maupin was in a position that he felt he had to
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1 accept the employment offer, which would allow him to make larger restitution payments,
2 immediately.

3 Regarding the allegation that Defendant Maupin was involved in the theft of monies from his
4 former employer, Instant Wireless, Defendant Maupin vehemently denies stealing any money from
5 the company. In an effort to simply put this matter behind him, Defendant Maupin agreed, as did
6 other employees, to surrender a portion of his final check to reconcile the unaccounted funds
7 attributed to the cash registers that Defendant Maupin was assigned to during his employment with
8 Instant Wireless.
9

10 As of the date of this memorandum, it is undersigned counsel's information and belief that
11 Defendant Maupin **has not** been charged with having committed any criminal offense.

12 Regarding the probation department's allegation that Defendant Maupin did not inform his
13 new employer, Microsoft, of his criminal history, Defendant Maupin denies. Upon his employment
14 with Microsoft, Defendant Maupin contends he underwent a thorough criminal background check and
15 that he did in fact inform his new employers of his criminal conviction and probation status.
16

17 Regarding the probation department's allegation that Defendant Maupin did not inform the
18 "church staff" at First Congregational United Church of Christ (hereinafter, "First Congregational")
19 of his criminal history, ignores the fact that Defendant Maupin's direct superiors and the church's
20 board/decisions makers were aware of his criminal history and probationary status.
21

22 Further, a town hall meeting was held at the church wherein Defendant Maupin's criminal
23 history was openly discussed amongst the attendees, before his employment commenced. As a
24 requirement for employment, Defendant Maupin underwent a fingerprint background check, as well.
25 Indeed, all interested parties at First Congregational were aware of Defendant Maupin's conviction
26 and of the fact that he was on probation.
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1 It appears Mr. Watts may have discussed Defendant Maupin’s criminal history with members
2 of the “church staff” that did not either attend the town hall meeting or were not privy to the
3 information that Defendant Maupin’s superiors were privy to at the time he was employed at the
4 church. Nonetheless, the “suggestion” that Defendant Maupin withheld information regarding his
5 criminal history to “church staff” is patently false and not true.
6

7 Regarding the allegation that Defendant Maupin did not inform his probation officer of his
8 plan to resign from his position with First Congregational, Defendant Maupin denies.

9 In fact, Defendant Maupin contends Mr. Watts was aware of his intentions to leave the
10 employ of the church in that Mr. Watts gave him permission to attend an out of state retreat in which
11 the purpose of the retreat was for Defendant Maupin to receive instruction for starting up another
12 ministry program associated with another church.
13

14 To suggest that Defendant Maupin was attempting to hide that fact that he was leaving the
15 employ of First Congregational from the probation department is also without merit.

16 At the root of the subject petition to revoke Defendant Maupin’s probation grant, appears to
17 be some disputed, unfounded allegations regarding Defendant Maupin’s “relationship”, if any with
18 Ms. Elvira Fernandez. It is the opinion of the probation department that Defendant Maupin was
19 attempting to take advantage of a “vulnerable victim.”¹
20

21 As this Court may be aware, Ms. Fernandez has a pending wrongful death lawsuit filed
22 against the City of Phoenix Police Department, regarding the killing of her son, Mr. Danny
23 Rodriguez. For the Court’s information, Ms. Fernandez is currently represented in the
24 aforementioned lawsuit by Mr. Sabinus Megwa.
25

26 _____
27 ¹ Defendant Maupin again denies the allegation that he attempted to take advantage of Ms. Fernandez.
More importantly, the United States Probation Department concedes that Defendant Maupin’s
interactions with Ms. Fernandez, **are not** a violation of the terms of his probation grant.

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1 Defendant Maupin met Ms. Fernandez in a social setting and did perform the eulogy for her
2 son at his funeral. Ms. Fernandez does currently reside in a residence owned by Defendant Maupin's
3 father. Defendant Maupin was not involved in the arrangement regarding Ms. Fernandez' occupation
4 of Defendant Maupin's father's house.
5

6 Despite the characterizations made by the probation department in its memorandum in support
7 of revoking Defendant Maupin's probation grant, the Court has been provided with sworn affidavits
8 from both Ms. Fernandez and Mr. Megwa in which they both deny that Defendant Maupin attempted
9 to manipulate Ms. Fernandez or influence her to set up a trust that would give Defendant Maupin
10 access to any potential monies recovered in connection with her pending lawsuit.

11 Regarding Defendant Maupin's failure to pay restitution, undersigned directs the Court's
12 attention to the ledger attached to the memorandum filed by the USPO. Although, these are trying
13 times and Defendant Maupin has experienced difficulty securing reliable employment, the fact of the
14 matter is that he has been employed in lawful activities and has paid restitution. Thus, the USPO's
15 allegations regarding Defendant Maupin's lack of employment and failure to restitution is not entirely
16 accurate.
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18 **RECOMMENDATION/CONCLUSION**

19 For the reasons articulated herein, and supplemented by oral argument, if requested at the time
20 of disposition, Defendant Maupin, by and through undersigned counsel, respectfully requests that this
21 Honorable Court impose the following disposition: a sentence of time served and re-instatement to
22 probation.
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24 Finally, undersigned would be remiss if he did not inform the Court of some very disturbing
25 conduct allegedly engaged in by the USPO regarding its supervision of Defendant Maupin.
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1 Candidly, it is not too uncommon for probationers, to not “get along” or “like” their
2 supervising officers. However, it appears that there exists some personal animus that is being
3 directed toward Defendant Maupin by the probation department.

4 For example, Mr. Watts has accused Defendant Maupin of harboring a fugitive, defendant’s
5 wife, Mrs. Denise Maupin. Mr. Watts accused Mrs. Maupin of being an undocumented alien and
6 that Defendant Maupin was committing a crime by allowing his wife to reside with him.
7

8 In fact, he attempted to have Defendant Maupin sign a document confirming the
9 aforementioned allegations and directing Defendant Maupin to not have contact with his wife. Of
10 course, Defendant Maupin refused to sign the document.¹

11 Undersigned has been credibly informed that unbeknownst to Mr. Watts, Defendant Maupin
12 recorded multiple interactions between him and Mr. Watts, in which Mr. Watts made some
13 derogatory comments about Mrs. Maupin being an undocumented person and questioned the validity
14 of Defendant Maupin’s status as an ordained minister. Further, Mr. Watts, intimated that he could
15 have both Defendant Maupin and his grandmother, Ms. Opal Ellis, who has since passed, arrested, for
16 allowing Mrs. Maupin to reside with them due to Mrs. Maupin’s undocumented status.
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18 One would assume that despite one’s personal feelings, the relationship between probationers
19 and their supervising officers should always be professional and that the goals of all interested parties
20 should be to assist the probationer in their attempt to successfully complete the probation grant. Here,
21 it would appear that Defendant Maupin’s attempt to complete his probation grant is being frustrated
22 for unknown reasons.
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27 ¹ The Court should be advised that at the time these threats were made, Mrs. Maupin was residing in
the country on a visa and was attempting to change her status.

